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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/928,493	08/13/2001	Albert Honey Perdon	SEDN/PRED144	7921
56015 7590 03/03/2009 WALL & TONG, LLP/ SEDNA PATENT SERVICES, LLC 595 SHREWSBURY AVENUE SUITE 100 SHREWSBURY, NJ 07702			EXAMINER SALL, EL HADJI MALICK	
			ART UNIT 2457	PAPER NUMBER
			MAIL DATE 03/03/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

09/928,493

**Applicant(s)**

PERDON ET AL.

**Examiner**

EL HADJI M. SALL

**Art Unit**

2457

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 10/13/09.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) See Continuation Sheet is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5-7, 9-12, 14-23, 26-28, 30-33, 35, 36, 39, 41-44, 46, 47, 50-52 and 54-57 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 02/27/02
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

Continuation of Disposition of Claims: Claims pending in the application are 1,2,5-7,9-12,14-23,26-28,30-33,35,36,39,41-44,46,47,50-52 and 54-57.

### **DETAILED ACTION**

1. This action is responsive to the request for continued examination filed on January 13, 2009. Claims 3-4, 8, 13, 24-25, 29, 34, 37-38, 40, 45, 48-49, 53 and 58 are cancelled. Claims 1-2, 5-7, 9-12, 14-23, 26-28, 30-33, 35-36, 39, 41-44, 46-47, 50-52 and 54-57 are pending. Claims 1-2, 5-7, 9-12, 14-23, 26-28, 30-33, 35-36, 39, 41-44, 46-47, 50-52 and 54-57 represent predicting the activities of an individual or group using minimal information.

2. ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-12, 14-33, 35-44 and 46-57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herz U.S. 6,029,195 in view of Rooney U.S. 6,819,669 further in view of Goykhman U.S. 20020174134.

Herz teaches the invention substantially as claimed including system for customized electronic identification of desirable objects.

As to claim 1, Herz teaches a method of predicting the behavior of a current user of an interactive service, comprising the steps of:

Identifying activities of the current user engaging with interactive television service (column 32, lines 32-39; column 1, lines 17-21; see abstract);

Accessing a first collection of data comprising data associated with:

(i) cumulative activities in which other users have participated, (ii) conditions surrounding such other users' cumulative activities, and (iii) patterns of behavior exhibited by such other users through their participation in such cumulative activities (column 3, lines 39; column 6, lines 22-25), wherein the cumulative activities include viewing interactive television programming (column 90, lines 10-22);

Comparing (i) the current user's identified activities and surrounding conditions of the current user with cumulative activities and surrounding conditions of the other users to identify similarities therebetween (column 7, lines 9-18); and

Attributing to the current user a pattern of future behavior, based on the identified similarities and on the patterns of behavior of the other users(column 48, lines 49-57).

Herz fails to teach explicitly a set top box.

However, Rooney teaches a set top box (column 3, lines 64-66).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Herz in view of Rooney to incorporate a set top box. One would

be motivated to do so to allow the user to interact with the programs shown on the television set (column 3, lines 65-66).

Herz and Rooney fail to teach explicitly amount of time the current user participated in each of the identified activities.

However, Goykhman teaches computer-user activity tracking system and method. Goykhman teaches amount of time the current user participated in each of the identified activities (paragraph [0043]).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Herz and Rooney in view of Goykhman to provide conditions surrounding each of the identified activities, including amount of time the current user participated in each of the identified activities; and condition surrounding the cumulative activities of the other users, including amount of time that each other user participated in each respective activity in order to allow monitoring and tracking the activities of a user of a computer (abstract).

As to claim 2, Herz teaches the method of claim 1, wherein  
the identifying step further comprises identifying personal attributes of the current user; the first collection of data further comprises data associated with personal attributes of the other users (column 4, line 58); and

the comparing step further comprises comparing the personal attributes of the current user with the personal attributes of the other users to identify the similarities (column 7, lines 9-18)

As to claim 5, Herz teaches the method of Claim 1, wherein the first collection of data is based on activities the other users participated while engaged with the interactive television service (column 34, lines 33-45).

As to claim 6, Herz teaches method of claim 1, wherein the other users are unrelated individual persons (column 30, lines 47-49).

As to claim 7, Herz teaches the method of claim 1, wherein the other users are members of a group and the current user is identifiable as a potential member of that group (column 48, lines 45-49).

As to claim 9, Herz teaches the method of claim 1, further comprising the step of: periodically updating the first collection of data to reflect the other users' ongoing participation in additional activities (column 5, lines 28-30).

As to claim 10, Herz teaches the method of claim 9, wherein the step of periodically updating occurs in real time, during the current user's engagement with the interactive service (column 5, lines 28-30).

As to claim 11, Herz teaches the method of claim 1, further comprising:  
accessing a second collection of data data associated with:

(i) a plurality of activities that are available via the interactive television service and (ii) information about each of the plurality of available activities distinguishing the activity from other of the plurality of the available activities (column 34, lines 33-45; column 90, lines 10-22),

wherein the step of attributing includes selecting, from the plurality of available activities and based on the second collection of data, one or more activities in which the current user is most likely to participate during the engagement with the interactive television service (column 90, lines 10-22; abstract).

As to claim 12, Herz teaches the method of claim 1, wherein the interactive television service is accessed through the Internet, the activities of the current user and the cumulative activities of the other users include visits to Internet web sites, and the first collection of data includes further comprises data associated with:

- (i) an identity of each other user (column 1, lines 40-42; abstract),
- (ii) types of Internet web sites that each other user has visited (column 7, lines 30-35),
- (iii) content of each type of Internet web site visited by each other user (column 32, lines 32-39).

Herz and Rooney fail to teach explicitly amount of time spent.

However, Goykhman teaches amount of time spent (paragraph {0043}).

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Herz and Rooney in view of Goykhman to provide amount of time



spent at each type of Internet web site by each other user in order to allow monitoring and tracking the activities of a user of a computer (abstract).

As to claim 14, Herz teaches the method of claim 12, further comprising the step of:

periodically updating the first collection of data to reflect the other users' visits to additional Internet web sites (column 5, lines 28-30).

As to claim 15, Herz teaches the method of claim 14, wherein the step of periodically updating occurs in real time, during the current user's engagement with the interactive television service (column 5, lines 28-30).

As to claim 16, Herz teaches the method of claim 12, further comprising:

accessing a second collection of data comprising data associated with:

(i) a plurality of types of Internet web sites that are available for the current user to visit and

(ii) information about each of the plurality of types of Internet web sites distinguishing the type from others of the plurality of types of Internet web sites (column 7, lines 30-47); and

wherein the step of attributing includes selecting, from the plurality of Internet web sites, one or more types of Internet web sites which the current user is most likely

to visit during the engagement with the interactive television service (column 87, lines 46-53).

Claims 17-23, 26-28, 30-33, 35-36, 39, 41-44, 46-47, 50-52 and 54-57 do not teach or define any new limitations above claims 1-10 and therefore are rejected for similar reasons.

**4. *Response to Arguments***

Applicant's arguments with respect to claim 1-2, 5-7, 9-12, 14-23, 26-28, 30-33, 35-36, 39, 41-44, 46-47, 50-52 and 54-57 have been considered but are moot in view of the new ground(s) of rejection.

**5. *Conclusion***

Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention

Any inquiry concerning this communication or earlier communications from the examiner should be directed to El Hadji M Sall whose telephone number is 571-272-4010. The examiner can normally be reached on 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 571-272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/El Hadji M Sall/

Examiner, Art Unit 2157

Application/Control Number: 09/928,493

Page 10

Art Unit: 2457

/ARIO ETIENNE/

Supervisory Patent Examiner, Art Unit 2457